

REMARKS

Applicants appreciate the thoroughness with which the Examiner has examined the above-identified application. Reconsideration is requested in view of the remarks below.

The Examiner has rejected claim 1 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claim 1 of United States Patent No. 6,511,483 to Gwyther. The present application is also by Gwyther and is owned by the same assignee, Jarvis Products Corporation. The applicant encloses herewith a Terminal Disclaimer executed by Jarvis Products Corporation. The applicant also encloses a statement in accordance with 37 C.F.R. § 3.73. The Examiner is respectfully requested to withdraw the double patenting rejection (obviousness type) in view of the filing of the attached terminal disclaimer.

The Examiner has also rejected claims 1 and 14-21 (all claims) under 35 U.S.C. § 102(b) as being anticipated by DE 101 21 973 to Kreis et al. (Kreis). The applicant has obtained a translation of Kreis (copy enclosed). That translation establishes that the application filing date of Kreis was May 5, 2001 and the "Public release date of the patent granting" for Kreis was May 2, 2002.

The Examiner has cited Kreis under 35 U.S.C. § 102(b) which requires the invention to be "patented or described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to the date of the application for patent in the United States." The date of the present application was October 23, 2001. The critical date under § 102(b), one year prior thereto, was October 23, 2000. Kreis was filed (2001), published and granted (2002) after that

critical date. Thus, the Kreis reference was not available "more than one year prior to the date of the application" for the present patent.

Accordingly, the applicant respectfully requests the Examiner to withdraw the rejection of the present claims in view of Kreis under 35 U.S.C. § 102(b).

It is respectfully submitted that the application has now been brought into a condition where allowance of the entire case is proper. Reconsideration and issuance of a notice of allowance are respectfully solicited.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to Mail Stop Non Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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